IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

BLACKBIRD TECH LLC d/b/a BLACKBIRD TECHNOLOGIES, Plaintiff, v. MUBI, INC., Defendant.	C.A. No. ______________ JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Blackbird Tech LLC d/b/a Blackbird Technologies ("Blackbird Technologies") hereby alleges for its Complaint for Patent Infringement against Defendant Mubi, Inc. ("Mubi") on personal knowledge as to its own activities and on information and belief as to all other matters, as follows:

THE PARTIES

1. Plaintiff Blackbird Technologies is a Delaware limited liability company with its principal place of business located at 200 Baker Avenue, Suite 203, Concord, Massachusetts 01742.

2. On information and belief, Defendant Mubi is a Delaware corporation with a place of business located in New York, New York.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the provisions of the Patent Laws of the United States of America, Title 35, United States Code §§ 100, *et seq*.

4. Subject-matter jurisdiction over Blackbird Technologies' claims is conferred upon this Court by 28 U.S.C. § 1331 (federal question jurisdiction) and 28 U.S.C. § 1338(a) (patent jurisdiction).

5. This Court has personal jurisdiction over Mubi because Mubi is subject to general and specific jurisdiction in Delaware. Mubi has also established minimum contacts with this forum. Mubi has been incorporated in Delaware at all relevant times. Mubi regularly conducts business in Delaware, including by marketing, selling, and/or offering for sale subscriptions to its video on demand service (the "Mubi Service") through its website, www.mubi.com, which is accessible throughout the United States, including Delaware. The Mubi Service is also accessible from an app for iOS and Android devices that includes an option to download films for offline viewing (the "Mubi App"). The Mubi App is advertised through the Mubi website, and is available throughout the United States, including Delaware. The exercise of personal jurisdiction comports with Mubi's right to due process because, as described above, Mubi has purposefully availed itself of the privilege of conducting activities within Delaware such that it should reasonably anticipate being haled into court here. As alleged herein, acts by Mubi in this district have caused injury to Blackbird Technologies.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and (c) and § 1400(b) at least because Mubi transacts business within this district and has committed acts in this district that infringe U.S. Patent No. 7,174,362.

U.S. PATENT NO. 7,174,362

7. U.S. Patent No. 7,174,362 (the "'362 patent" or "patent-in-suit") entitled, "Method and System for Supplying Products from Pre-Stored Digital Data in Response to Demands Transmitted via Computer Network," was duly and legally issued by the U.S. Patent

and Trademark Office on February 6, 2007. Blackbird Technologies is the owner by assignment of all right, title, and interest in and to the ’362 patent, including all right to recover for any and all infringement thereof. The ’362 patent is valid and enforceable. A true and correct copy of the ’362 patent is attached as Exhibit A.

8. Claim 2 of the ’362 patent recites, for example, a computer-implemented method of digital data duplication whereby requests are processed by a computer over a network. The computer comprises modules configured to execute the requests: A first module configured to create a task log based on incoming requests; a second module configured to store all available digital data for duplication, which comprises an expandable indexed archive of digital data, and a resource file for an output device; and a third module configured to retrieve requested digital data, download the data to an output device, and command the output device to transfer the data onto media.

9. Claim 10 of the ’362 patent recites, for example, a computer-implemented method of digital data duplication whereby requests are processed by a computer over a network. The computer comprises modules configured to execute the requests: A first module configured to create a task log based on incoming requests; a second module configured to store all available digital data for duplication; and a third module configured to retrieve requested digital data, download the data to an output device, and command the output device to transfer the data onto media. The storage capacity remaining in an output device is tracked.

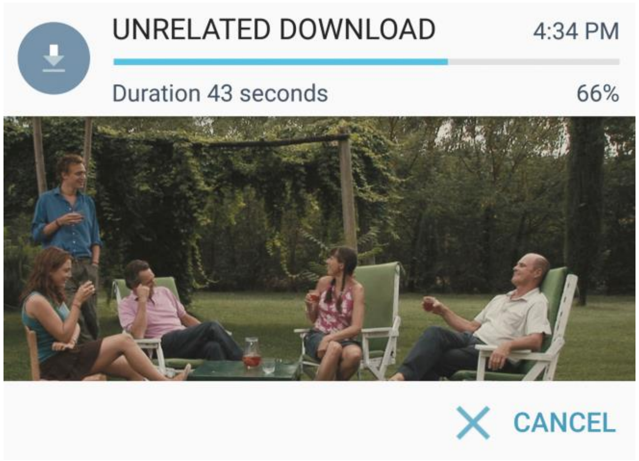
COUNT I – INFRINGEMENT OF U.S. PATENT NO. 7,174,362

10. Blackbird Technologies reasserts and incorporates by reference Paragraphs 1 through 9 of this Complaint as if fully set forth herein.

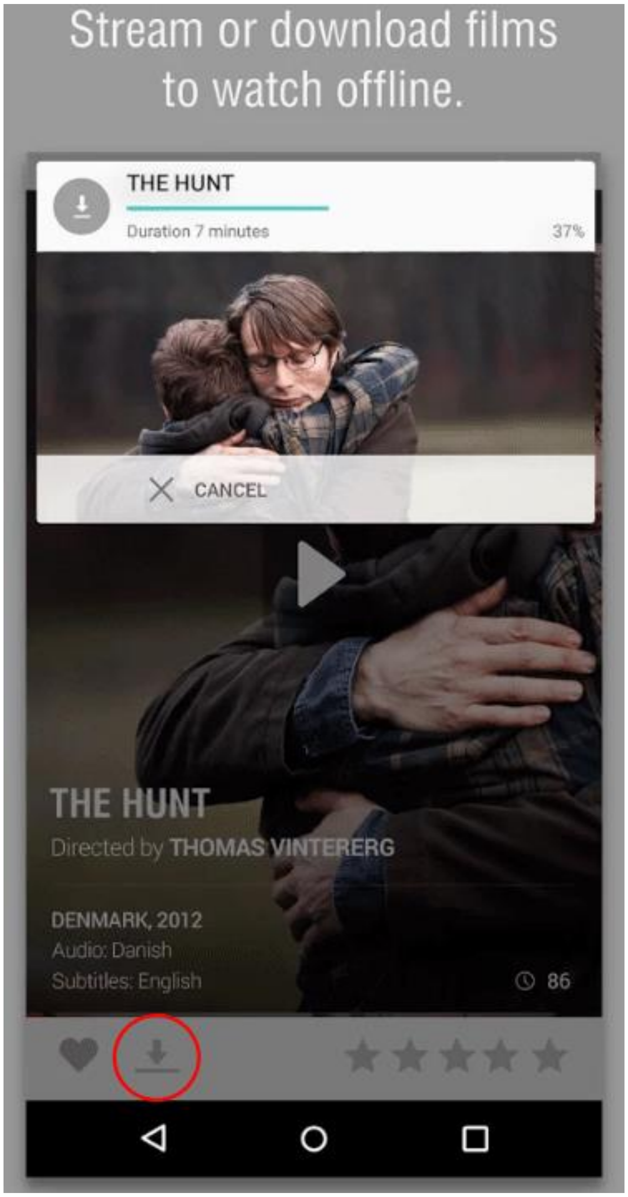
11. The Mubi App enables Mubi Service subscribers to download films onto their mobile device for offline viewing. *See, e.g.*, Mubi Help – Am I able to download the films to my computer? ("[Y]ou can temporarily download our films via our Android and iOS mobile apps and keep them on your device for a 7-day period for offline viewing."), *available at* http://help.mubi.com/article/34-am-i-able-to-download-the-films-to-my-computer.

12. Mubi stores an expandable indexed archive of videos, which are available for download to a mobile device with the Mubi App. *See, e.g.*, Mubi Help – Why aren't all the films listed on MUBI.COM available to watch? ("We have an interactive film database where we aim to list every movie ever made, regardless of whether or not it's currently playing on MUBI. The number of films in our database is growing daily through our communities contributions, whereas our curated online cinema sticks to providing you with a constantly rotating selection of 30 movies in any given time or place.").

13. Mubi takes download requests from the Mubi App upon selection of a download icon/command. For example:

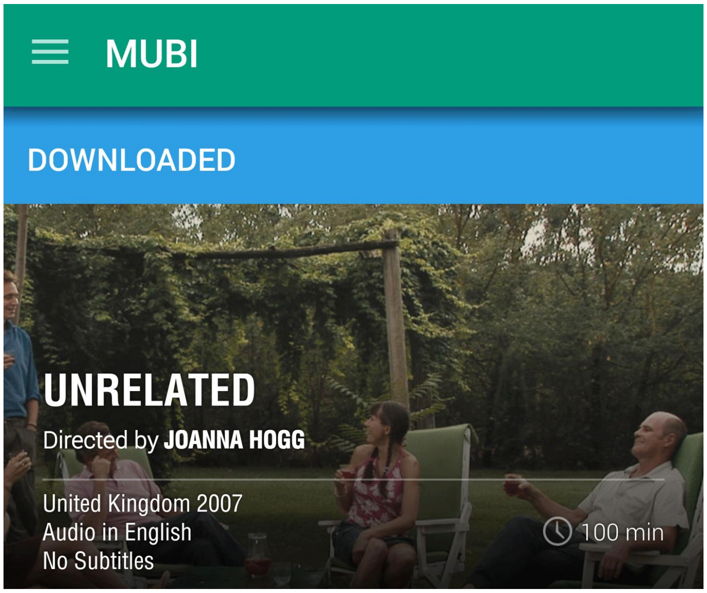


(screenshot from Mubi App for Android (downloading film onto mobile device).)


Stream or download films
to watch offline.
THE HUNT
Duration 7 minutes
37%
CANCEL
THE HUNT
Directed by THOMAS VINTERERG
DENMARK, 2012
Audio: Danish
Subtitles: English
86

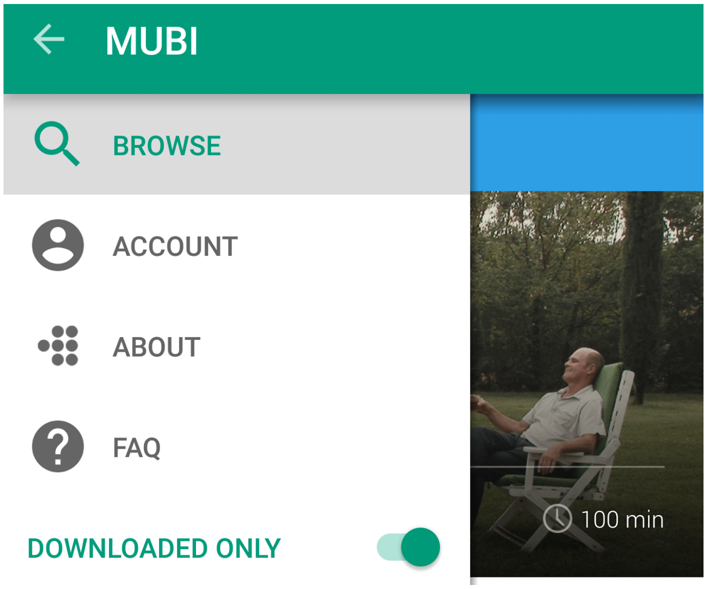
(Mubi App page at Google Play (download icon highlighted).)

14. After Mubi processes a Mubi Service subscriber's download request from the Mubi App, the requested film is stored onto that Mubi Service subscriber's mobile device so it can be viewed offline:


MUBI
DOWNLOADED
UNRELATED
Directed by JOANNA HOGG
United Kingdom 2007
Audio in English
No Subtitles
100 min

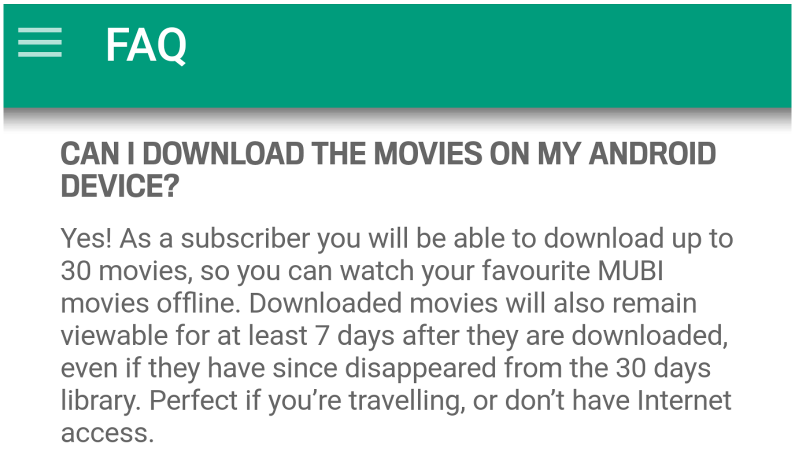
(screenshot from Mubi App for Android (showing downloaded film available for offline viewing).)

15. Mubi creates a task log based on incoming download requests as evidenced by, for example, the downloaded movie or TV episode's identification on a Mubi Service subscriber's "DOWNLOADED ONLY" browse filter:


MUBI
BROWSE
ACCOUNT
ABOUT
FAQ
DOWNLOADED ONLY
100 min

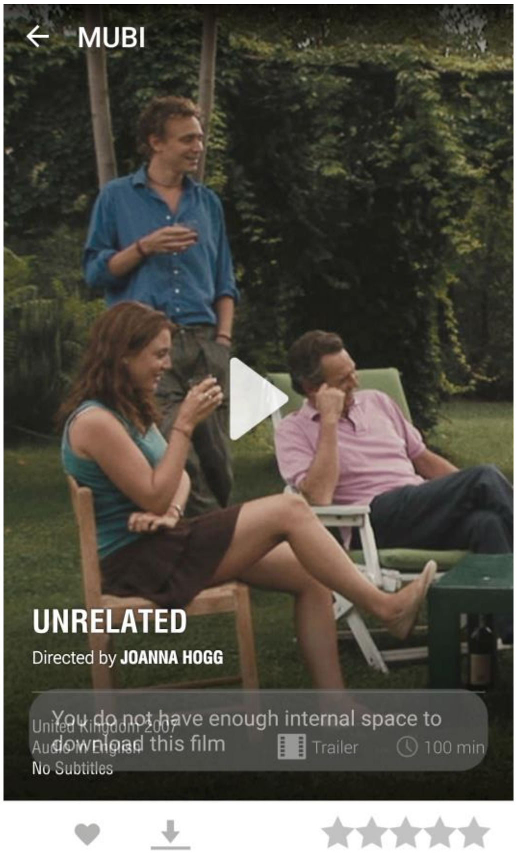
(screenshot from Mubi App for Android (filtering Mubi Service films list to only display films that were downloaded onto the Mubi Service subscriber's mobile device).)

16. Mubi maintains information associated with the Mubi Service subscriber's mobile device, including for example any download limitations:


FAQ
CAN I DOWNLOAD THE MOVIES ON MY ANDROID DEVICE?
Yes! As a subscriber you will be able to download up to 30 movies, so you can watch your favourite MUBI movies offline. Downloaded movies will also remain viewable for at least 7 days after they are downloaded, even if they have since disappeared from the 30 days library. Perfect if you're travelling, or don't have Internet access.

(screenshot from Mubi App for Android (FAQ section indicating download limit of 30 movies).)

17. Mubi tracks the storage capacity remaining in the Mubi Service subscriber's mobile device:


MUBI
UNRELATED
Directed by JOANNA HOGG
You do not have enough internal space to download this film
United Kingdom 2007
Audio in English
No Subtitles
Trailer
100 min

(screenshot from Mubi App for Android (displaying "You do not have enough internal space to download this film" message if requested film size exceeds the mobile device's available storage space).)

18. Therefore, Mubi, pursuant to 35 U.S.C. § 271(a), has directly infringed and continues to directly infringe, literally and/or under the doctrine of equivalents, one of more claims of the '362 patent, including at least claims 2 and 10.

Damages

19. Blackbird Technologies has sustained damages as a direct and proximate result of Defendant's infringement of the '362 patent.

20. As a consequence of Defendant's past infringement of the '362 patent, Blackbird Technologies is entitled to the recovery of past damages in the form of, at a minimum, a reasonable royalty.

21. As a consequence of Defendant's continued and future infringement of the '362 patent, Blackbird Technologies is entitled to royalties for its infringement of the '362 patent on a going-forward basis.

PRAYER FOR RELIEF

WHEREFORE, Blackbird Technologies respectfully requests that this Court enter judgment against Defendant, as follows:

A. Adjudging that Defendant has infringed at least claims 2 and 10 of the '362 patent literally and/or under the doctrine of equivalents, in violation of 35 U.S.C. § 271(a);

B. An award of damages to be paid by Defendant adequate to compensate Blackbird Technologies for Defendant's past infringement and any continuing or future infringement up until the date such judgment is entered, and in no event less than a reasonable royalty, including interest, costs, and disbursements pursuant to 35 U.S.C. § 284;

C. Ordering Defendant to continue to pay royalties to Blackbird Technologies for infringement of the ’362 patent on a going-forward basis;

D. Adjudging that this case be exceptional under 35 U.S.C. § 285 and awarding enhanced damages, including costs and attorneys’ fees, to Blackbird Technologies;

E. Awarding Blackbird Technologies pre-judgment and post-judgment interest at the maximum rate permitted by law on its damages; and

F. Granting Blackbird Technologies such further relief as this Court deems just and proper under the circumstances.

DEMAND FOR JURY TRIAL

Blackbird Technologies demands a trial by jury on all claims and issues so triable.

Dated: February 1, 2017

STAMOULIS & WEINBLATT LLC

/s/ Stamatios Stamoulis

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